

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

PHILIP A. BONADONNA,  
Petitioner,

v.

Civil Action No.  
10-40093-JLT

JEFFREY GRONDOLSKY, WARDEN  
OF FMC DEVENS,  
Respondent

MEMORANDUM AND ORDER

TAURO, J.

On May 20, 2010, Petitioner Philip A. Bonadonna, a prisoner in custody at FMC Devens, filed a self-prepared petition for a writ of habeas corpus under 28 U.S.C. § 2241. He failed to pay the \$5.00 filing fee or to seek a waiver thereof.

A party filing a habeas action in this Court must either (1) pay the \$5.00 filing fee for habeas corpus actions; or (2) seek leave to proceed without prepayment of the filing fee.

See 28 U.S.C. § 1914(a) (fees); 28 U.S.C. § 1915 (proceedings in forma pauperis). The motion for leave to proceed without prepayment of the filing fee must be accompanied by "a certificate from the warden or other appropriate officer of the place of confinement showing the amount of money or securities that the petitioner has in any account in the institution." Rule 3(a)(2) of the Rules Governing Section 2254 cases.<sup>1</sup>

Because Petitioner has not submitted a filing fee or moved for leave to proceed in forma pauperis, he shall be granted additional time to do so.

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<sup>1</sup>The rules governing petitions brought pursuant to 28 U.S.C. § 2254 cases may be applied at the discretion of the district court to other habeas petitions. See Rule 1(b) of the Rules Governing Habeas Corpus Cases Under Section 2254.

Accordingly, if Petitioner wishes to proceed with this action, within 21 days of the date of this Procedural Order, he either must (1) pay the \$5.00 filing fee; or (2) file a motion for leave to proceed in forma pauperis accompanied by a certified prison account statement. Failure of Petitioner to comply with this directive may result in the dismissal of this action without prejudice. The Clerk shall provide petitioner with an Application to Proceed in District Court Without Prepaying Fees or Costs.

Notwithstanding the unresolved filing fee issue, the Court will direct service of the petition and a response to be filed by Respondent.

Accordingly, it is hereby Ordered that:

1. Within 21 days of the date of this Memorandum and Order, Petitioner shall pay the \$5.00 filing fee or file an application for leave to proceed in forma pauperis accompanied by his certified prison account statement;
2. The Clerk of this Court shall serve a copy of the petition upon (i) Jeffrey Grondolsky, Warden, FMC Devens, P.O. Box 880, Ayer, Massachusetts 01432; AND (ii) the United States Attorney; and
3. The Respondent shall, within 20 days of receipt of this Order, file an answer or other responsive pleading. The answer (or other responsive pleading) must also include a statement notifying this Court of the existence of any victim or victims as defined by 18 U.S.C. § 3771.

SO ORDERED.

/s/ Joseph L. Tauro  
JOSEPH L. TAURO  
UNITED STATES DISTRICT JUDGE

DATED: June 7, 2010